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HOUSE BILL 241

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Antonio Lujan

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING THE USE OF MOBILE
COMMUNICATION DEVICES WHILE DRIVING A MOTOR VEHICLE; PROVIDING
A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Motor Vehicle Code,
Section 66-7-358.1 NMSA 1978, is enacted to read:

"66-7-358.1. [NEW MATERIAL] MOBILE COMMUNICATION DEVICE
USE PROHIBITION.--

A. A person shall not use a mobile communication
device while operating a motor vehicle except:

- (1) to contact a public safety entity;
- (2) for legitimate use by operators of

commercial motor vehicles in order to maintain communication in
the performance of job duties;

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- 1 (3) while the vehicle is lawfully parked; or
- 2 (4) during an emergency.

3 B. As used in this section:

4 (1) "emergency" means a situation in which a
5 person:

6 (a) has reason to fear for the person's
7 life or safety or believes that a criminal act may be
8 perpetrated against the person or another person requiring the
9 use of a mobile communication device while the car is moving;
10 or

11 (b) reports a fire, a traffic accident
12 in which one or more injuries are apparent, a serious road
13 hazard, a medical or hazardous materials emergency or a person
14 who is driving in a reckless, careless or otherwise unsafe
15 manner; and

16 (2) "mobile communication device" means a
17 cellular telephone or other device that enables a person to
18 transmit to and receive signals from a person or device."

19 Section 2. Section 66-8-116 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 525, as amended) is amended to read:

21 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--
22 DEFINITION--SCHEDULE OF ASSESSMENTS.--

23 A. As used in the Motor Vehicle Code, "penalty
24 assessment misdemeanor" means violation of any of the following
25 listed sections of the NMSA 1978 for which, except as provided
.164002.2

1 in Subsection D of this section, the listed penalty assessment
2 is established:

3 COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
4		ASSESSMENT

5 Permitting unlicensed		
6 minor to drive	66-5-40	\$ 10.00

7 Failure to obey sign	66-7-104	10.00
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8 Failure to obey signal	66-7-105	10.00
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9 Speeding	66-7-301	
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10 (1) up to and including		
11 ten miles an hour		
12 over the speed limit		15.00

13 (2) from eleven up to		
14 and including fifteen		
15 miles an hour		
16 over the speed limit		30.00

17 (3) from sixteen up to		
18 and including twenty		
19 miles an hour over the		
20 speed limit		65.00

21 (4) from twenty-one up to		
22 and including twenty-five		
23 miles an hour		
24 over the speed limit		100.00

25 (5) from twenty-six up to		
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1	and including thirty		
2	miles an hour over the		
3	speed limit		125.00
4	(6) from thirty-one up to		
5	and including thirty-five		
6	miles an hour over the		
7	speed limit		150.00
8	(7) more than thirty-five		
9	miles an hour over the		
10	speed limit		200.00
11	Unfastened safety belt	66-7-372	25.00
12	Child not in restraint device		
13	or seat belt	66-7-369	25.00
14	Minimum speed	66-7-305	10.00
15	Speeding	66-7-306	15.00
16	Improper starting	66-7-324	10.00
17	Improper backing	66-7-354	10.00
18	Improper lane	66-7-308	10.00
19	Improper lane	66-7-313	10.00
20	Improper lane	66-7-316	10.00
21	Improper lane	66-7-317	10.00
22	Improper lane	66-7-319	10.00
23	Improper passing	66-7-309 through 66-7-312	10.00
24	Improper passing	66-7-315	10.00
25	Controlled access		

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1	violation	66-7-320	10.00
2	Controlled access		
3	violation	66-7-321	10.00
4	Improper turning	66-7-322	10.00
5	Improper turning	66-7-323	10.00
6	Improper turning	66-7-325	10.00
7	Following too closely	66-7-318	10.00
8	Failure to yield	66-7-328 through 66-7-331	10.00
9	Failure to yield	66-7-332	50.00
10	Failure to yield	66-7-332.1	25.00
11	Pedestrian violation	66-7-333	10.00
12	Pedestrian violation	66-7-340	10.00
13	Failure to stop	66-7-342 and 66-7-344	
14		through 66-7-346	10.00
15	Railroad-highway grade		
16	crossing violation	66-7-341 and 66-7-343	10.00
17	Passing school bus	66-7-347	100.00
18	Failure to signal	66-7-325 through 66-7-327	10.00
19	Failure to secure load	66-7-407	100.00
20	Operation without oversize-		
21	overweight permit	66-7-413	50.00
22	Improper equipment	66-3-801	10.00
23	Improper equipment	66-3-901	20.00
24	Improper emergency		
25	signal	66-3-853 through 66-3-857	10.00

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1	Operation interference	66-7-357	5.00
2	Littering	66-7-364	300.00
3	Improper parking	66-7-349 through 66-7-352	
4		and 66-7-353	5.00
5	Improper parking	66-3-852	5.00
6	Failure to dim lights	66-3-831	10.00
7	Riding in or towing		
8	occupied house trailer	66-7-366	5.00
9	Improper opening of doors	66-7-367	5.00
10	No slow-moving vehicle		
11	emblem or flashing		
12	amber light	66-3-887	5.00
13	Open container--first		
14	violation	66-8-138	25.00
15	<u>Mobile communication</u>		
16	<u>device use</u>	<u>66-7-358.1</u>	<u>30.00.</u>

17 B. The term "penalty assessment misdemeanor" does not
18 include a violation that has caused or contributed to the cause
19 of an accident resulting in injury or death to a person.

20 C. When an alleged violator of a penalty assessment
21 misdemeanor elects to accept a notice to appear in lieu of a
22 notice of penalty assessment, a fine imposed upon later
23 conviction shall not exceed the penalty assessment established
24 for the particular penalty assessment misdemeanor, and
25 probation imposed upon a suspended or deferred sentence shall

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1 not exceed ninety days.

2 D. The penalty assessment for speeding in violation
3 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978
4 is twice the penalty assessment established in Subsection A of
5 this section for the equivalent miles per hour over the speed
6 limit."